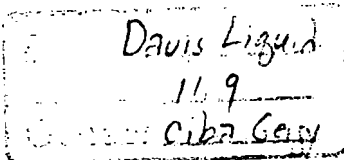


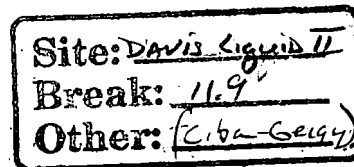
CIBA-GEIGY Corporation

Ardsley, New York 10502  
Telephone 914 478 3131



CIBA-GEIGY

March 12, 1986



637658

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ira Leighton, Chief  
U.S. Environmental Protection Agency  
ME/NH/RI Enforcement Section  
JFK Federal Building HWC-1907  
Boston, MA 02203

Re: Davis Liquid Waste Site, Smithfield, Rhode Island  
Request for Information

Dear Mr. Leighton:

This letter responds to EPA's request for information pursuant to Section 104 (e) of CERCLA and Section 3007 (a) of RCRA regarding the above-referenced site. EPA's request was embodied in a letter to CIBA-GEIGY Corporation dated January 31, 1986, from Merrill S. Hohman, Director of the Waste Management Division. I am the Manager of CERCLA Compliance for CIBA-GEIGY Corporation, Ardsley, New York. I have been advised, however, that all of CIBA-GEIGY's facilities have conducted a record search relative to the Davis Liquid Waste Site and, therefore, am responding on behalf of CIBA-GEIGY Corporation.

As an initial matter, CIBA-GEIGY would like to emphasize that based on a review of its records, it has found no information or documentation that any hazardous substances generated by CIBA-GEIGY were ever sent or transported to the Davis Liquid Waste Site. As further evidence that no hazardous waste generated by CIBA-GEIGY was disposed of at the Davis Site, annexed hereto as Exhibit A is the deposition transcript of James E. Crowley, Manager of Safety, Health and Environment at our Cranston, Rhode Island facility, taken in connection with Dennis J. Roberts, II, et al. vs. William and Eleanor Davis, et al., Rhode Island Superior Court, C.A. Number 78-3027. Dr. Crowley had ultimate authority regarding waste disposal practices at CIBA-GEIGY's Rhode Island facility during the specified time period, and testified that, based upon his personal knowledge and following a search of records, CIBA-GEIGY did not dispose or arrange for the disposal of hazardous waste at the Davis Disposal Site in Smithfield Rhode Island (See Exhibit A, page 6).



SEMS DocID

637658

CIBA-GEIGY further responds to the specific numbered questions set forth in EPA's request for information dated January 31, 1986, as follows:

Question 1: Provide any and all information in the possession, custody, or control of your company, or any of its officers, employees, agents or attorneys (Company), or known to your company or its officers, employees, agents, or attorneys (Company) concerning arrangement for the disposal of any hazardous wastes or substances at the Davis Liquid Site or for transport for disposal of any hazardous wastes or substances to the Davis Liquid Waste Site.

Response: See Exhibit A. Additionally, see letter dated November 13, 1985, from CIBA-GEIGY Corporation to EPA, annexed hereto as Exhibit B. CIBA-GEIGY was unable to locate any records concerning arrangement for the disposal or transport for disposal of hazardous wastes or substances to the Davis Liquid Waste Site.

Question 2: Provide any and all information concerning the type(s) of wastes or substances disposed of, the quantity or volume of wastes or substances disposed of, and the date(s) of disposal of any hazardous wastes or substances by your Company or its agents or contractors at the Davis Liquid Waste Site.

Response: CIBA-GEIGY was unable to locate any records indicating that it ever disposed of or arranged for the transportation of hazardous substances to the Davis Site.

Question 3: Provide any and all information concerning the process, manner, and time period for generation of those hazardous wastes or substances which your Company transported to or arranged to have disposed at the Davis Liquid Waste Site.

Response: See response to Question 2.

Question 4: Provide the names and addresses of any companies or individuals with whom arrangements were made to transport to the Davis Liquid Waste Site any hazardous wastes or substances generated, treated, stored, or handled by your Company. Further provide the dates and details of any such arrangements (including, but not limited to the contract price, type of waste, any specified method of disposal, or specified location within the landfill for disposal of hazardous wastes or substances).

Response: See response to Question 2.

Question 5: Provide any and all information relating to liability insurance policies maintained by your Company during any of the periods in which your Company was involved in the

disposal or transport of hazardous wastes or substances at or to the Davis Liquid Waste Site.

Response: Not applicable.

Question 6: Provide any and all information relating to the disposal location within the Davis Liquid Waste Site of your Company's hazardous wastes or substances, or those of other companies.

Response: See response to Question 2.

Question 7: Provide copies of any and all documents in the possession, custody, or control of your Company or any of its officers, employees, agents, or attorneys which refer or relate to any of the questions propounded above. Compliance with these requests also requires that you submit copies of all documents referenced in the documents responsive to the above questions. You should complete this information request by answering all questions completely and truthfully and by providing copies of all relevant documents, including contracts, purchase orders, shipping documents, bills of lading, invoices, correspondence, memoranda, notes, photographs, and any other written, printed, recorded, or graphic material (including information stored in a computer) showing the origin of the wastes or substances, numbers of barrels or containers, types and any detailed analysis of wastes or substances, or amounts of wastes or substances. Where specific documents do not exist but the information is known to you, or officers, employees or agents of your company, you should provide a written response containing all such information. In the event that a substantial amount of information is available from employees' memories or other unrecorded sources, EPA may consider setting up interviews for the purpose of obtaining such information.

Response: See Exhibits A and B.

Question 8: If documents responsive to these requests have been destroyed, transferred, or lost, provide the dates and reasons for such destruction, transfer, or loss, and, if transferred, the new location.

Response: Not applicable.

Question 9: Each question is to be answered for the period from January 1970 to the present.

Response: CIBA-GEIGY's response to each request is based on a search of available records and recollections of responsible personnel from January 1, 1970, through the present.

Question 10: Identify, including names, current addresses, and responsibilities, all persons consulted in the preparation of responses to the above questions.

Response: Numerous responsible persons were consulted from the following CIBA-GEIGY divisions and multi-divisional plants:

Agricultural Division  
Dyestuffs & Chemicals Division  
Pharmaceuticals Division  
Plastics & Additives Division  
Cranston, R.I. Plant  
McIntosh, Alabama Plant  
Toms River, N.J. Plant

Question 11: Identify the person answering the request on behalf of the addressee.

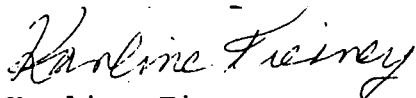
Response: Karline Tierney  
Manager, CERCLA Compliance  
CIBA-GEIGY Corporation  
Ardsley, New York

CIBA-GEIGY denies liability with regard to the Davis site and renews its request that the Agency advise us of the factual basis for its claim that CIBA-GEIGY may have some responsibility at the site. Further, the Agency's failure to arrange site access which would enable us to more reasonably assess the situation further requires we restate our objection to the Agency's undertaking any action at Davis Liquid Waste until such information and site access is provided.

Should you have further questions regarding any of these matters, please contact:

Robert Naidus, Esq.  
CIBA-GEIGY Corporation  
444 Saw Mill River Road  
Ardsley, New York 10502  
914-478-3131

Very truly yours,



Karline Tierney  
Manager, CERCLA Compliance

EXHIBIT A

State Davis Ligan  
Book 11.9  
Office Ciba Geigy

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

\* \* \* \* \*

DENNIS J. ROBERTS, II, et al

VS.

C.A. NO. 78-3027

WILLIAM AND ELEANOR DAVIS, et al

\* \* \* \* \*

DEPOSITION OF JAMES E. CROWLEY, a witness  
in the above-entitled cause, taken on behalf of the  
plaintiff, pursuant to notice, before Nancy Nigohosian,  
Notary Public, in and for the State of Rhode Island, at  
72 Pine Street, Providence, Rhode Island, on May 2, 1984,  
at 10:00 a.m.

APPEARANCES:

FOR THE PLAINTIFF.....CHARLES E. DILEVA, SPECIAL  
ASSISTANT ATTORNEY GENERAL

FOR THE DEFENDANT

DAVIS.....THOMAS PLUNKETT, ESQUIRE

FOR THE DEFENDANT

NOCERA.....HAROLD KESSLER, ESQUIRE

FOR CIBA-GEIGY CORP.....MICHAEL DEFANTI, ESQUIRE

**A-1 COURT REPORTERS, INC.**

236 Westminster Mall  
Alice Bldg., Room 610  
Providence, RI 02903  
(401) 272-3990



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

PAGE NO.

JAMES E. CROWLEY

Examination by Mr. DiLeva	2
Examination by Mr. Plunkett	7
Further Examination by Mr. DiLeva	12

RECEIVED (C) BARONNI N.J. 01002

E X H I B I T S

EXHIBIT NO.

PAGE NO.

FOR THE PLAINTIFF

1 Subpoena to CIBA-GEIGY  
CORPORATION marked  
Plaintiff's Exhibit 1.

2



JAMES E. CROWLEY

Being duly sworn, deposes and testified in the following manner:

(SUBPOENA TO CIBA-GEIGY CORPORATION MARKED PLAINTIFF'S EXHIBIT 1)

EXAMINATION BY MR. DILEVA

Q. Mr. Crowley, I'll show you what has been marked as Plaintiff's Exhibit 1 and ask if that is a copy of the subpoena that was delivered to you?

A. Yes.

Q. And you're here in response to that subpoena?

A. Yes.

Q. And how are you employed, Mr. Crowley?

A. I'm employed as the Manager of Safety, Health, and Environment at CIBA-GEIGY CORPORATION in Cranston, Rhode Island.

Q. And Mr. Crowley, you are aware that this subpoena was issued to ask you some questions concerning CIBA-GEIGY's waste disposal practices between January 1, 1976, and December 31, 1977?

MR. DeFANTI: Could I have that question again?

(QUESTION READ BACK)

MR. DeFANTI: I'll object to the question.

1 I believe the subpoena speaks for itself as to what  
2 it requires; and I would read what is a notice that  
3 seems to be appended to this subpoena that has been  
4 marked, instructions to the witness that were  
5 attached to the subpoena that were served upon him  
6 that states, the person who responds to the within  
7 witness subpoena is hereby directed to bring any  
8 and all records of any type including but not limited  
9 to canceled checks, invoices, delivery slips, and  
10 contracts showing the type, quantity of waste or  
11 other materials delivered to the property of William  
12 Davis, Sr., in Smithfield, Rhode Island, for disposal  
13 during the period of January 1, 1976, up to and  
14 including December 31, 1977. I think that's the  
15 only scope of this deposition; and if there is no  
16 quarrel, I'll stipulate to that.

17  
18 MR. DiLEVA: I'll rephrase my question.

19 Q. Mr. Crowley, did you bring any records or other  
20 documents with you today in response to the notice  
21 that was appended to the subpoena that was served  
22 upon you?

23 A. No, there were no such records, to the best of  
24 my knowledge, after a search of the records.

25 Q. And can you tell me how you searched the records to

1  
2 make that determination?

3 A. Yes, when we do business with any contracting  
4 firm, there's a record kept of the name, address of  
5 the firm, and the number of dollars business that we  
6 do. This is an annual record. I searched that  
7 annual record with the Assistant <sup>of</sup> the Purchasing  
8 Superintendent, for the period in question.

9 Q. And who was that individual?

10 A. Arthur Hanoian, H-A-N-O-I-A-N.

11 Q. And were you able to go back through January 1, 1976?

12 A. Yes, we were.

13 Q. And do you have any personal knowledge as to the  
14 waste disposal practices of CIBA-GEIGY during that  
15 same time period?

16 A. Yes, I was the highest person in the organization  
17 that made decisions relative to disposal.

18 Q. And during that time period, can you tell me where  
19 waste was disposed from CIBA-GEIGY?

20 MR. DeFANTI: Objection. I instruct the  
21 witness not to answer. I don't believe this witness  
22 is here to describe, again, a practice that regards  
23 CIBA-GEIGY, who is not a party in this litigation.  
24 The subpoena specifically said that in the scope of  
25 the examination here today, and also stated that he

1  
2 was to give evidence of what you know relative to  
3 any disposal of waste at the Davis Site in Smithfield,  
4 Rhode Island. He's here to testify on anything he  
5 knows about that subject matter, but I'm not going  
6 to permit him to be examined on CIBA-GEIGY's disposal  
7 practices in general. I believe that's beyond the  
8 scope of your deposition, and he's not a party.

9 MR. PLUNKETT: I think he has a right to  
10 ask a question to lay the foundation. This is for  
11 discovery, not for the purposes of testimony at  
12 trial; and I don't think Rule 26-B limits it to  
13 what is a reasonable subpoenaed record only, not as  
14 to the nature of his testimony.

15 MR. DEFANTI: It says relative to the  
16 disposal of waste at the Davis Site in Smithfield,  
17 Rhode Island. He'll give you any testimony you want  
18 for the Davis Site. Generally what they do with  
19 waste, how they dispose of and where they dispose of  
20 it, is not a party to the litigation; and I'll not  
21 permit an examination on that matter without a court  
22 order.

23 Q. Mr. Crowley, would you be the individual who would  
24 know the location of waste disposal during that time  
25 period?

1  
2 A. I would be the most knowledgeable person in  
3 the corporation relative to that.

4 Q. And to the best of your knowledge during that time  
5 period, there was no disposal of any waste generated  
6 by CIBA-GEIGY at the Davis Disposal Site in Smithfield,  
7 Rhode Island?

8 A. That's correct, neither directly nor indirectly,  
9 to the best of my knowledge.

10 Q. Would there be any other individuals employed by  
11 CIGA-GEIGY either currently or in the past who would  
12 direct me to any other information concerning disposal  
13 practices of CIBA-GEIGY?

14 MR. DEFANTI: Is the question, is there  
15 anybody at CIBA-GEIGY that would have knowledge that  
16 he does not have?

17 MR. DiLEVA: Other than Mr. Crowley.

18 MR. DEFANTI: Is there somebody who would  
19 know something that he does not know?

20 MR. DiLEVA: Yes.

21 A. There are not. There were two employees who  
22 reported to me during this period whose knowledge  
23 generally in the area would be less than mine.

24 Q. And those employees reported to you as to the method  
25 and location of waste disposal?

1  
2 A. Those employees reported to me, but had no  
3 freedom to act for the corporation in any disposal  
4 matter except one approved by me.

5 MR. DiLEVA: Okay, I have no further  
6 questions.

7 MR. KESSLER: No questions.

8 EXAMINATION BY MR. PLUNKETT

9 Q. Mr. Crowley, you say you know there was no dumping  
10 of any waste from CIBA-GEIGY at the Davis Site  
11 directly or indirectly?

12 A. I said I know there was no direct disposal of  
13 waste because there are no records relative to that;  
14 and to the best of my knowledge, there is no indirect  
15 disposal of waste.

16 Q. On what do you base that?

17 A. To the best of my knowledge, I have neither  
18 heard from anyone who claims to have disposed of  
19 waste there --

20 MR. DiLEVA: Why don't you come in and  
21 take a seat. Continue Mr. Crowley.

22 A. I have neither heard from anyone who claims to  
23 have disposed of waste there; and as a result of  
24 direct questioning of all of the individuals that I  
25 did business with during that time, their certification

New Party  
arrived for  
next  
Deposition  
JEC

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

that they disposed of waste at the site that I contracted for.

Q. Who were the individuals with whom you did business with at that time?

A. There were a large number of people within and outside of Rhode Island, especially for those areas for which Rhode Island does not have appropriate technology.

Q. Do you handle that area only for the Rhode Island plant of CIBA-GEIGY or for the whole corporation?

A. I was responsible for the Cranston, Rhode Island plant only.

Q. I see, and could you give me some of the names of the contractors with whom you did business?

A. I can probably think of a limited number, if that's within the scope of this testimony, I can answer that question.

MR. DEFANTI: For '76 to '77.

Q. Yes, '76 to '77.

A. It's obviously from recall, and I was responsible for the management of all concentrated waste there, trash or industrial waste during that period. The principal contractor in Rhode Island was for trash, Sanitary Landfill, Inc. on Pontiac Avenue. For

1 industrial waste, Capuano Brothers, also on Pontiac  
2 Avenue. There was no other Rhode Island contractor  
3 involved in any disposal of waste in Rhode Island.  
4 There were incinerators and what is known as secured  
5 landfills for waste that was flammable or for waste  
6 that was subsequently defined as hazardous by the  
7 EPA after 1977. The incinerator that was principally  
8 used in that period, there were three, Rollin\$  
9 Environmental in Bridgeport, New Jersey; Ross  
10 Brothers in Grafton, Ohio. I'm not sure if they  
11 were used during that period. Cannons Engineering  
12 in Bridgewater, Massachusetts, <sup>for</sup> secured landfill,  
13 CECOS, C-E-C-O-S, Niagara Falls, New York, known at  
14 that time as NEWCO, N-E-W-C-O, and presently is <sup>S. J. C.A.</sup>  
15 Corporation. Model Cities, New York, known at that  
16 time as CHEM-TROL, C-H-E-M - T-R-O-L. To the  
17 best of my knowledge that's the complete list of  
18 the disposal sites.  
19

20 Q. Would CIBA-GEIGY, again during that period of time,  
21 would CIBA-GEIGY itself provide the transportation  
22 of those wastesto the out-of-state sites?

23 A. CIBA-GEIGY does not own trucks. We would  
24 contract for the waste disposal either with a hauling  
25 firm or through the disposer. Some disposers have



1  
2 their own trucks, other disposers do not. For  
3 instance, with Rollins Environmental, they have a  
4 mixture of contract fleet that they do business with  
5 as well as trucks that they own.

6 Q. Would either Sanitary Landfill or <sup>Ac</sup>~~Ray~~ Capuano  
7 Brothers get involved -- did they get involved with  
8 the transporting of waste that had to go out of state?

9 A. No.

10 Q. During that time period, did CIBA-GEIGY receive back  
11 a certification or a receipt of any sort indicating  
12 a final destination of the waste?

13 A. For certain contractors.

14 Q. Not for all of them?

15 A. Not for all of them.

16 Q. Did you receive that back for Capuano or Sanitary  
17 Landfill?

18 A. Verbally, not in writing.

19 Q. And for the other five that you have listed, the  
20 out-of-state sites?

21 A. I don't recall.

22 Q. Do you remember, again, during that time period, the  
23 names of the hauling firms who would have hauled the  
24 waste to the out-of-state sites?

25 A. I can't remember. All I can remember is a

1  
2 couple of them. There was one firm called  
3 Transamerican that used to haul to Grafton, Ohio.  
4 I cannot recall the names of the other firms. I  
5 mean, I can recall seeing trucks on the site, I just  
6 don't know if they were delivering raw material or  
7 hauling waste solvents.

8 Q. And finally, the reason for using out-of-state firms  
9 was that the Rhode Island sites, to your knowledge,  
10 were not suitable for those types of waste?

11 A. That's correct.

12 Q. And were they involved, you have mentioned highly  
13 flammable wastes --

14 MR. DeFANTI: I think he mentioned  
15 flammable.

16 Q. I'm sorry, flammable, any other particular category  
17 of waste that had to go out of state that you can  
18 remember?

19 A. During that period, the category that went out  
20 of state were incinerable waste, acid waste, <sup>and wastes</sup> which  
21 would require a more secure tow than provided by  
22 Rhode Island landfills. They would remove such things  
23 as acid waste, something that's not suitable.

24 Q. Corrosive material?

25 A. Corrosive material, something that's not suitable

for disposal in Sanitary Landfill?

Q. Could you give me at least a general description of what Capuano Brothers would have handled for your general category?

A. During that period?

Q. During that period, yes.

A. Probably between one and two-hundred, thirty yard compactors of general paper wood trash, three or four times a week, and drums that would best be described as filter residues, filter papers, wrapped <sup>or other</sup> things ~~used~~ <sup>being fine organic</sup> from purified ~~flammogen~~ chemicals and <sup>JEC</sup> that <sup>disposal</sup> would be at Capuano Brothers.

Q. Anything in the nature of waste oils or solvents?

A. I think Capuano Brothers had a waste oil disposal permit from DEM. It wasn't DEM back then, it was --

Q. Department of Health.

A. Department of Health, for a lagoon on their property; and I think they took waste oil on occasion; but it was an irregular practice.

MR. PLUNKETT: Thank you, that's all I have.

FURTHER EXAMINATION BY MR. DiLEVA

Q. Just to follow up, did CIBA-GEIGY barrel their own waste during the relevant time period?

A. For that waste which was disposed in drums, yes. We had waste that would be handled in bulk, especially the incinerable waste.

Q. And what did the barrels look like? Any way you can describe them?

A. The most typical drum would be a 55 gallon open head lock ring drum.

Q. And what color were they?

A. Black.

Q. Did they have any -- was there any name printed on the barrels, to your knowledge?

A. I believe so.

Q. Would it have been CIBA-GEIGY?

A. It would have been, yes. There are also, and in clarification of that question, I think it demands clarification; Capuano Brothers used to empty the drums, and part of the payment for their disposal was the resale of those drums. So, that even though we put the material in the ~~drums~~<sup>right top</sup> and lock ring open head drums, it is particularly easy to open, it's a simple maneuver to remove the lock ring; and the end of the drum is then removed; and all of the contents of these drums would be <sup>in</sup> the easiest way to describe is large plastic bags so that if the drum were tipped

1  
2 out, you would have essentially a clean drum with no  
3 additional work on their part. So, they would re-  
4 cycle those drums through drum recycl<sup>ers</sup>ists.

5 Q. And you didn't give them any instructions concerning  
6 your name remaining on those drums?

7 A. No.

8 Q. And they would go back into the stream of commerce?

9 A. Yes.

10 MR. DiLEVA: No further questions.

11 MR. PLUNKETT: No questions.

12 MR. KESSLER: No further questions.

13 MR. DiLEVA: Thank you, Mr. Crowley.

14 (DEPOSITION CLOSED)  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, Nancy Nigohosian, do hereby certify that I am expressly approved as a person qualified and authorized to take depositions pursuant to Rules of Civil Procedure of the Superior Court, especially, but without restriction thereto, under Rule 30 (e) of said Rules; that the witness was first sworn by me; that transcript contains a true record of proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 2<sup>nd</sup> day of May, 1984.

*Nancy Nigohosian* Notary Public  
NOTARY PUBLIC AND SHORTHAND REPORTER

EXHIBIT B

Robert A. Naidus  
Attorney

CIBA-GEIGY Corporation  
Ardsley, New York 10502  
Telephone 914 478 3131

# CIBA-GEIGY

November 13, 1985

Ira Leighton, Chief  
U. S. Environmental Protection Agency  
ME/NH/RI Enforcement Section  
Waste Management Division  
JFK Federal Building HWC-1907  
Boston, Massachusetts 02203

Re: Davis Liquid Waste Site  
Smithfield, Rhode Island

Dear Mr. Leighton:

Mr. Merrill S. Hohman's letters of November 6 regarding the above-referenced site have been referred to me. Please be advised that CIBA-GEIGY Corporation denies any liability with regard to the Davis site. Frankly, we are totally unaware of any connection to that site. We therefore request that you advise us of the factual basis for the Agency's claim that we may have some responsibility so that we may intelligently respond to Mr. Hohman's letter. We also request that the time for our response be extended until after we receive such information. We object to the Agency's undertaking any action at the site until we have had a fair and reasonable opportunity to assess the situation.

I understand that Region I will usually call a meeting of potentially responsible parties to explain what is happening at a Superfund site if there is interest in such a meeting. We would be interested in attending such a meeting should one be held.

Please address all future correspondence in this matter to me at the above address.

Very truly yours,

  
Robert A. Naidus

RAN/ep/7ocr.1